

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
EUGENE DIVISION

DAVID LEWIS,

Plaintiff,

v.

BAY AREA HEALTH DISTRICT, doing  
Business as Bay Area Hospital, and  
VICTORIA CANNON, individually,

Defendants,

Case No. 6:18-cv-02028-AA  
**OPINION AND ORDER**

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AIKEN, District Judge:

Plaintiff, David Lewis, brings this civil rights action against defendants Bay Area Heath District and Victoria Cannon, alleging violations of his constitution rights related to medical care provided by defendants. Now before the Court is defendants' Motion for a More Definite Statement or, in the alternative, Motion to Dismiss (doc. 12). Defendants' argue that plaintiff has failed to adequately plead timely notice under the Oregon Tort Claims Act ("OTCA") for his state law claims. See Or. Rev. Stat. § 30.260 *et. Seq.* In response, plaintiff has filed a proposed amended complaint

("PAC") for the Court's consideration. (doc. 22) The PAC provides more specific information regarding plaintiff's claims, removes his state law claims, and removes Ms. Cannon as a named defendant. Defendants reply that they agree to the filing of the PAC, without waiving any objections or defenses. They also request that the Court enter a limited judgment formally dismissing Victoria Cannon as a defendant and plaintiff's state law claims.

A party may amend its pleading only with the opposing party's written consent or the court's leave. Fed. R. Civ. P. 15(a)(2) The court should freely give leave when justice so requires. *Id.* As defendants do not object to the proposed amendment, the Court grants plaintiff leave to file an amended complaint. Plaintiff shall have 14 days from the date of this order in which to file his amended complaint. Accordingly, the Court GRANTS in part and DENIES in part defendants' motion. (doc. 12) All claims against defendant Victoria Cannon are dismissed as are plaintiff's state law claims. The Clerk shall enter a formal judgment to that effect.

IT IS SO ORDERED.

Dated this 22<sup>nd</sup> day of January 2020.



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Ann Aiken  
United States District Judge